

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

In re: HERBERT WILLIAMS JR.

Debtor.

Case No. 21-10825-KHK

(Chapter 13)

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UNIT OWNERS ASSOCIATION OF  
HARBOR POINT EAST CONDOMINIUM  
AT BELMONT BAY

Movant,

v.

HERBERT WILIAMS JR.

Respondent.

THOMAS P. GORMAN,

Trustee.

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**NOTICE OF MOTION FOR RELIEF FROM THE AUTOMATIC STAY**  
**MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

UNIT OWNERS ASSOCIATION OF HARBOR POINT EAST CONDOMINIUM AT BELMONT BAY ("Movant") has filed papers with the Court seeking relief from the automatic stay in the above captioned case.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

If you do not wish the court to grant the relief sought in the motion, or if you want the court to consider your views on the motion, then within 14 days from the date of service of this motion, you or your attorney must:

1. File with the court, at *Clerk of Court, United States Bankruptcy Court, 200 S. Washington Street, Alexandria, VA 22314*, a written response explaining your position with the Court and serve a copy on the movant. **Unless a written response and supporting memorandum are filed and served within the 14-day period, the Court may deem any opposition waived, treat the motion as conceded, and issue an order granting the requested relief without further notice or hearing.** If you

mail your response to the court for filing, you must mail it early enough so the court will receive it on or before the expiration of the 14-day period. You must **also** mail a copy to the persons listed below.

2. Attend the hearing scheduled to be on June 23, 2021, at 9:30 a.m. in Courtroom III, United States Bankruptcy Court, 200 South Washington Street, Alexandria, VA 22314. If no timely response has been filed opposing the relief requested, the court may grant the relief without holding a hearing.

A copy of any written response must be mailed to the following Persons:

Erik W. Fox  
REES BROOME, PC  
1900 Gallows Road, Suite 700  
Tysons Corner, VA 22182

Thomas P. Gorman, Trustee  
300 N. Washington St., Ste. 400  
Alexandria, VA 22314

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Dated: June 2, 2021

/s/Erik W. Fox  
Erik W. Fox, Virginia State Bar No. 65456  
REES BROOME, PC  
1900 Gallows Road, Suite 700  
Tysons Corner, Virginia 22182  
Phone No. (703) 790-1911  
Fax No. (703) 848-2530  
Counsel, Unit Owners Association of Harbor Point East Condominium at Belmont Bay

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

In re: HERBERT WILLIAMS JR.	:	
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Debtor.	:	Case No. 21-10825-KHK
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UNIT OWNERS ASSOCIATION OF	:	
HARBOR POINT EAST CONDOMINIUM	:	
AT BELMONT BAY	:	:
	:	
Movant,	:	
vi.	:	
	:	
HERBERT WILIAMS JR.	:	
	:	
Respondent.	:	
	:	
THOMAS P. GORMAN,	:	
	:	
Trustee.	:	

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**MOTION FOR RELIEF FROM AUTOMATIC STAY**

TO THE HONORABLE KLINETTE H. KINDRED, BANKRUPTCY JUDGE:

COMES NOW, Movant, Unit Owners Association of Harbor Point East Condominium at Belmont Bay (the “Association”), by counsel, and pursuant to 11 U.S.C. §362 (d) (4), seeks relief from the automatic stay. In support thereof, the Association states as follows:

Erik W. Fox  
REES, BROOME, PC  
1900 Gallows Road, Suite 700  
Tysons Corner, Virginia 22182  
Phone No. (703) 790-1911  
Fax No. (703) 848-2530  
Counsel for Movant  
Virginia State Bar No.: 65456

1. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 157 and 1334 and 11 U.S.C. 362(d) (4); this matter is a core proceeding.

2. Herbert Williams, Jr. (the “Debtor”) filed this, his fifth bankruptcy filing on May 7, 2021.

3. Thomas P. Gorman was appointed as the Chapter 13 trustee.

4. The Association is a duly constituted condominium association in accordance with the provisions of the Virginia Condominium Act and the Association’s Declaration (“Declaration”), which is recorded among the land records of Prince William County, at Instrument Number 200406020092345, and as amended.

5. Debtor asserts in this bankruptcy<sup>1</sup> an ownership interest in the condominium unit known as 440 Belmont Bay Drive, #317, Woodbridge, VA 22192 (the “Property”) the Property is more fully known as:

Condominium Unit 317, HARBOR POINT EAST AT BELMONT BAY, A Condominium, and the limited common elements appurtenant thereto, Including Common Element Parking Space(s), P-6 and P-7 and Common Element Storage 25 and 3D, established by condominium instruments recorded on June 2, 2004 as Instrument No. 200406020092344, with plat recorded as Instrument Number 200406020092345, and any supplemental declarations and/or amendments recorded subsequent thereto, among the land records of Prince William County, Virginia.

AND BEING the same property conveyed to Herbert Williams, Jr. and Garyle Elizabeth Carley, by virtue of a Deed dated 05/19/2010 and recorded as Instrument No. 201006070048073 among the Land Records of Prince William County, Virginia.

A copy of the Deed is attached hereto as Exhibit 1.

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<sup>1</sup> The Debtor previously surrendered the Property in Case No. 12-12601-BFK through a confirmed plan of reorganization, which case was administratively closed on completion of the plan but without discharge as the Debtor was ineligible to receive a discharge in that case.

6. The Debtor has filed five bankruptcy cases since October 2010, and three since December 2018. The cases and their outcomes are synopsized as follows:

- Case No. 10-18636-RGM, filed October 12, 2010 and closed on March 4, 2011. This was a chapter 7 case filed by the Debtor. The Debtor received his discharge on February 28, 2011.
- Case No. 12-12601-BFK, filed on April 23, 2012 and closed on November 24, 2014. This was a chapter 13 case filed by the debtor. The Debtor's Modified Chapter 13 Plan [Doc. 103] was confirmed by order of the Court on February 26, 2014 [Doc 115]. The approved Modified Chapter 13 Plan provided for surrender of the Property in satisfaction of Debtor's obligations to Movant. The case was closed without entry of discharge due to the Debtor's ineligibility for a discharge.
- Case No. 18-14206-KHK, filed on December 18, 2018 and closed on March 22, 2019. This was a chapter 7 case filed by the Debtor. The Debtor received his discharge on March 19, 2019.
- Case No. 19-12981-BFK, filed on September 6, 2019 and closed on May 15, 2020. This was a chapter 13 case filed by the Debtor. The Debtor was not able to obtain confirmation of a chapter 13 plan, and the case was closed without plan approval.
- Case 21-10825-KHK, the instant matter, was filed on May 7, 2021.

7. The Debtor has timed his bankruptcy filings to frustrate his creditors, specifically with relation to the Property. Case No. 10-18636-RGM was filed the day before a scheduled foreclosure sale of the Property. A copy of the trustee's sale notice is attached as Exhibit 2.

8. Debtor's next bankruptcy, Case No. 12-12601-BFK was filed on April 23, 2012. Again, this case was filed prior to a foreclosure of the Property scheduled for April 24, 2012. A copy of the Trustee's sale note is attached as Exhibit 3. As noted above, Debtor's approved plan in this case provided for surrender of the Property.

9. Even though the Debtor had previously surrendered the Property, the Debtor again filed for relief under chapter 7 on December 18, 2018. Again, this filing was the day before a

scheduled foreclosure sale of the Property (case No. 18-14206-KHK). A copy of the Trustee's sale notice is attached as Exhibit 4.

10. Debtor commenced the current action the same day the Association was scheduled to appear before the Prince William County Circuit Court seeking an order appointing a special commissioner to sell the Property. A copy of the Motion's Day Praecipe/Notice is attached as Exhibit 5.

11. The Property is located within the Association and subject to its Declaration, including the liability for common expenses pursuant to Article VI, Section 2 of the Association's Bylaws, which are an exhibit to the Declaration.

12. Additionally, pursuant to Article X, Section 1 (c) of the Association's Bylaws, owners can be liable for attorneys' fees and costs in suits arising from owners' failure to pay assessments. A copy of the pertinent sections of the Bylaws is attached as Exhibit 6.

13. To date, the Association has claims for assessments and late charges in the approximate amount of \$28,946.06 and is hindered in its ability to effectively collect assessments owed on the Property due to the Debtor's repeated bankruptcy filings.

14. The Association has been frustrated in its efforts to collect the assessments due to the repeated bankruptcy filings and seeks an *in rem* order from this court lifting any stay pursuant to 11 U.S.C. 362 (d) (4) (B) as it relates to the Debtor and the Property.

WHEREFORE, Movant, Unit Owners Association of Harbor Point East Condominium at Belmont Bay, respectfully prays that this court enter an order finding that the filing of this petition was part of a scheme to delay, hinder, or defraud creditors due to multiple bankruptcy filings affecting the Property. Movant further prays for an Order pursuant to 11 U.S.C. § 362 (d) (4) (B) granting it (and any other creditor secured by the Property) *in rem* relief from the

Automatic Stay as to the Property, and generally as to the Debtor, to record liens, conduct foreclosure sale(s), and any other relief necessary to obtain possession of the Property, and such other relief as this Court shall deem proper.

June 2, 2021  
Date

/s/ Erik W. Fox  
Erik W. Fox  
REES BROOME, PC  
1900 Gallows Road, Suite 700  
Tysons Corner, Virginia 22182  
Phone No. (703) 790-1911  
Fax No. (703) 848-2530  
Counsel for Movant  
Virginia State Bar No.: 65456

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Motion for Relief from the Automatic Stay and Motion for Relief from Automatic Stay were mailed, postage prepaid, or served via ECF to:

Ashley Frances-May Morgan  
Ashley F. Morgan Law, PC  
722 Grant Street, Ste. G.  
Herndon, VA 20170  
Counsel for Debtor

Herbert Williams, Jr  
440 Belmont Bay Dr #317  
Woodbridge, VA 22191-5453  
Debtor

Thomas P. Gorman, Trustee  
300 N. Washington St., Ste. 400  
Alexandria, VA 22314

this 2<sup>nd</sup> day of June, 2021.

/s/ Erik W. Fox  
Erik W. Fox